

also possible that a degradation of Apollo's combined premium and basic channel net revenue may result from the test marketing of VOD and NVOD services in Cerritos.

If Apollo can demonstrate by a clear, convincing statistical calculation that the provision of VOD and NVOD has directly resulted in a decrease in its current adjusted net revenue per subscriber, GTE SC will compensate Apollo in an amount equal to the lesser of eighty percent (80%) of the revenue loss or \$20,000.00 each month during the term of this Agreement.

The parties acknowledge that factors other than VOD and NVOD may impact premium and basic subscription levels such as natural downgrades as the system matures, changes in wholesale programming cost, repositioning of service from a basic to a premium or vice versa, seasonal fluctuations (decrease in summer due to weather and vacation schedules), and others not defined herein. It is agreed that all such factors will be explored and identified and the result factored into any statistical calculation to compute revenue loss or gain. The parties agree to review Apollo's net revenue per subscriber quarterly during the term of this Agreement and will agree as to the net revenue per subscriber for each such quarter.

12. Apollo hereby agrees that all data concerning usage and operation of VOD and NVOD is the exclusive property of GTE SC and that this data shall be provided in its entirety to GTE SC by Apollo in a mutually agreed format. Apollo will treat all such data as confidential and proprietary information of GTE SC and will not disclose this data to any third party, other than a billing agent who also agrees not to disclose the data, without GTE SC's

written permission. Attachment A contains examples of the VOD and NVOD data which will be collected by Apollo for GTESE's use and which will be considered GTESE proprietary.

13. The validity, construction and enforcement of this Agreement shall be governed by the laws of the State of California.

14. This Agreement contains the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties.

15. In the event either party hereto initiates an appropriate legal action to enforce the terms and provisions of this Agreement, the prevailing party in such action may recover its costs of suit, including reasonable attorney fees.

16. Upon ten (10) days written notice by GTESE to Apollo (or such shorter period as the parties may mutually agree upon), GTESE or its authorized representative shall have the right to commence a quarterly audit or examination during normal business hours of all source documents, systems, records and procedures as may contain information bearing upon amounts being billed to GTESE pursuant to this Agreement. The notice of audit or examination shall identify the date upon which it is to commence, the location, GTESE's representatives, the subject matter of the audit or examination and the materials to be reviewed. In the conduct of the audit or examination, GTESE's review will include all information which Apollo has or is in a position to provide to ensure that all components of all invoices are substantiated by adequate source documentation. GTESE shall also have integrity of source data.

GTE SC shall have the right to select, subject to approval of Apollo, an independent certified public accounting firm to conduct all or a portion of the audit or examination.

Each party shall bear its own expenses in connection with the conduct of each audit or examination except that GTE SC shall pay for the cost of the independent certified accounting firm.

IN WITNESS WHEREOF, this Service Agreement is executed the day and year indicated below.

GTE SERVICE CORPORATION

APOLLO CABLEVISION, INC.

By Walt Sorg  
Walt Sorg  
Assistant Vice President  
Business Development  
Date 11/16/89

By Charlotte J. Robak  
Name CHARLOTTE J. ROBAK  
Title PRESIDENT  
Date 11-16-89  
ATTEST: [Signature]  
Corporate Secretary

## DATA REQUIREMENTS FOR NVOD

Examples of data requirements are listed below. Data elements noted with a \* are originally provided by GTE to Apollo. These flow through Apollo's business system and will be accessed by Apollo on GTE's behalf to provide reports referencing buyer behavior to data originally provided by GTE. GTE will work with Apollo to develop report format and collection methods. Wherever possible, standard business system reports will be used.

### Per buy, per home and per buy per converter box

yes/no buy within promo time

yes/no buy within tease time

price of buy \*

channel # of buy \*

start time of buy \*

title of buy \*

studio of buy \*

type of buy (movie, event, special interest) \*

yes/no special promotions (eg coupon) \*

will need to provide data in format for GTE to cross-tabulate with external  
GTE databases of demographics, etc

### Per home and per converter box

number of buys per time period (day, week, month, year,...)

number of buys per price of buy

number of buys per type (movie, event, special interest)

yes/no subscription to premium services (per service)

will need to provide data in format for GTE to cross-tabulate with external  
GTE databases of demographics, etc

### Global statistics

% of cable HHs ever using NVOD

% of basic only HHs using NVOD per time period

% of pay HHs using NVOD per time period

cumulative usage of NVOD per HH (by revenue and # buys)

ave usage of NVOD among all HHs (by revenue and # buys)

ave usage of NVOD among users of NVOD (by revenue and # buys)

# and % HHs ordering specific titles

# and % HHs ordering specific titles at specific timeslot

# and % HHs using NVOD at different price points



AMENDMENT NO. 1  
TO THE SERVICE AGREEMENT  
BETWEEN GTE SERVICE CORPORATION AND  
APOLLO CABLEVISION, INC.

This Amendment No. 1 to the Service Agreement between GTE SERVICE CORPORATION ("GTESC") and APOLLO CABLEVISION, INC. ("APOLLO") is entered into as of \_\_\_\_\_, 1991.

RECITALS

This Amendment No. 1 to Service Agreement is entered into with reference to the following agreed facts:

- A. APOLLO and GTESC entered into a Service Agreement that was executed by both parties on November 16, 1989. All references to the "Service Agreement" shall hereinafter refer to the November 16, 1989, document which is hereby incorporated by reference.
- B. The purpose of this Amendment No. 1 to the Service Agreement is to extend the term of the Service Agreement, modify certain of the terms and provisions all as set forth in this document.

NOW, THEREFORE, the parties hereby agree that the Service Agreement shall be amended as set forth below:

- 1. Paragraph one of the Service Agreement is hereby modified to read as follows:

"1. The term of this Agreement is from the date the Agreement is signed ~~until~~ December 31, 1993."

- 2. Paragraph two of the Service Agreement is hereby modified to read as follows:

"2. During the term of this Agreement, GTESC shall have the right to require Apollo to provide VOD and NVOD in the City of Cerritos in a manner defined by and under the supervision of GTESC. Apollo agrees that it will not provide VOD or NVOD or any pay-per-view service other than as contemplated by this Agreement. The parties agree, however, that VOD and NVOD do not include satellite delivered event programming and that Apollo may provide satellite delivered event programming such as boxing, concerts, Wrestlemania, etc. pursuant to the terms of this agreement. In this regard, the parties further agree as follows:

- (a) Apollo shall have a right of first refusal for all satellite delivered event programming offered within the City of Cerritos and Apollo may enter into contracts for the delivery of such programs as, in Apollo's sole discretion, it deems appropriate.
- (b) In the event Apollo elects not to provide a particular satellite pay per view event such as boxing, concerts, Wrestlemania, etc., GTESC may offer the event over its portion of the bandwidth that is a part of the 550 MHz CATV System owned by GTE California Incorporated and leased to (i) Apollo pursuant to that certain Lease dated January 22, 1987, (as amended); and, (ii) GTESC pursuant to that certain Lease dated May 8, 1987.
- (c) In the event Apollo wishes to provide satellite delivered event programming and does not have bandwidth available on its portion of the 550 MHz CATV System, or if other technical reasons prohibit Apollo from offering such event, GTESC may elect to provide the necessary channel capacity on its portion of the 550 MHz CATV System to deliver the event, if such bandwidth is, in GTESC's sole discretion, available. GTESC will not charge Apollo for this use of its portion of the 550 MHz CATV System bandwidth nor would GTESC share in the revenues to be generated from such event.
- (d) The revenue generated by the satellite delivered event programming by Apollo shall inure solely to Apollo and no portion of such revenue shall inure to the benefit of GTESC."
- (e) The parties further agree that they may enter into further agreements regarding the promotion of specific satellite delivered events whereby GTESC would promote such events in order to increase its knowledge regarding the effectiveness of various promotional alternatives pursuant to such terms and provisions as are subsequently mutually agreed by both parties."

3. Paragraph five of the Service Agreement is hereby modified to read as follows:

- "5. In connection with the provision of VOD and NVOD in the City of Cerritos, Apollo will provide the following services:
- (a) All CATV-related services, if any, necessary to support the provision of VOD and NVOD to customers who have access to such events over technology made available by GTESC.
  - (b) Billing and collection services.
  - (c) Customer services, consisting of the availability of Apollo customer service representatives (CSRs), technical staff, and sales staff who have training in the installation of converter boxes, Telephone Interface Modules (TIMs), and in the offering of VOD and NVOD services, to interface with customer of VOD and NVOD services in accordance with parameters established by GTESC.
  - (d) Technical support services, testing, and maintenance.
  - (e) Apollo shall utilize sufficient collection methods to determine information concerning the purchase of specific VOD and NVOD events in accordance with parameters established by GTESC, and shall transmit monthly by the fifth (5th) working day after the billing cycle closes (or on such other frequent basis as may be otherwise agreed) all such information and all revenues collected for such events to GTESC."
4. Paragraph six of the Service Agreement is hereby modified to read as follows:
- "6. Apollo shall exert its best efforts to collect all revenues covered under this agreement and to report any uncollectibles within 60 days of occurrence to GTESC. It is understood that any customer with VOD and NVOD uncollectibles in excess of 60 days will be immediately disconnected from all NVOD services."
5. Paragraph seven of the Service Agreement is hereby modified to read as follows:



- "7. GTE SC will execute all contracts for programming to be furnished to Apollo for use in providing VOD and NVOD programming to customers in the City of Cerritos, subject to any applicable orders of the Federal Communications Commission. Apollo may enter into such contracts for satellite delivered 'pay per view' programming as, in its sole discretion, it deems appropriate."
6. Paragraph eight of the Service Agreement is hereby deleted and the following substituted in lieu thereof:
- "8. The parties agree that no sums will be paid to Apollo for the above referenced services, VOD and NVOD programs viewed and no portion of the revenue generated by GTE SC for products not theatrically released or anything released after the pay TV window shall be paid to or inure to the benefit of Apollo."
7. Paragraph nine of the Service Agreement is hereby deleted and the following substituted in lieu thereof:
- "9. GTE SC shall reimburse Apollo for the following expenses in connection with VOD and NVOD:
- (a) The training of Apollo's CSRs on VOD and NVOD billing procedures at the hourly rate of sixteen dollars fifty cents (\$16.50) for the time spent by Apollo CSRs in such training. Total training costs will not exceed one thousand dollars (\$1,000.00) without the prior written consent of GTE SC.
  - (b) The time spent by Apollo CSRs, technicians, and engineers to repair VOD and NVOD event schedules and the headend equipment (not covered under Amendment No. 1 to the Maintenance Agreement between GTE California Incorporated and Apollo Cablevision, Inc., dated May 3, 1991).
  - (1) The above-mentioned reimbursement shall be at the hourly rate of sixteen dollars fifty cents (\$16.50) for CSRs, twenty-two dollars fifty cents (\$22.50) for technicians, and forty-seven dollars fifty cents (\$47.50) for Apollo's engineers. Total cost will not exceed fifteen thousand dollars (\$15,000.00) annually without the prior written consent of GTE SC."

8. Paragraph ten of the of the Service Agreement is hereby deleted and the following substituted in lieu thereof:

"10. The parties agree that Apollo shall lease the CLX System from GTE Leasing Corporation for a term of 27 months. GTESC and Apollo shall share the lease costs for the CLX system only, and at the expiration of the lease term, Apollo shall have the option to renew the lease, purchase the CLX system at its fair market value (FMV), or return the system to the lessor. It is noted at the expiration of said lease that GTESC has no further obligation for the CLX system. In connection with the utilization of the CLX system, the parties further agree as follows:

- (a) Apollo will give GTESC access to its data files contained in the System to generate various reports at no additional cost to GTESC.
- (b) GTESC understands and agrees that the data of Apollo contained in such System related solely to CATV Operations is the exclusive property of Apollo and that GTESC shall treat such data as confidential and proprietary information of Apollo and will not disclose this information to any third party without first obtaining Apollo's written consent."

9. Paragraph twelve of the Service Agreement is hereby modified to read as follows:


"12. Apollo agrees that all data concerning usage and operations of VOD and NVOD is the exclusive property of GTESC and that this data shall be provided via GTESC's access to the CLX System.

Apollo will treat all such data as confidential and proprietary information of GTESC and will not disclose this data to any third party, other than a billing agent who also agrees not to disclose the data, without GTESC's written permission. Attachment A contains examples of the VOD and NVOD data which will be collected for GTESC's use and which will be considered GTESC proprietary."

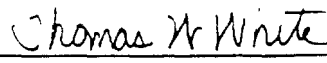
10. Except as otherwise expressly stated in this Amendment No. 1, the parties ratify and affirm all of the terms and provisions of the Service Agreement.

IN WITNESS WHEREOF this first amendment to the Service Agreement is executed the date and year indicated below.

GTE SERVICE CORPORATION:

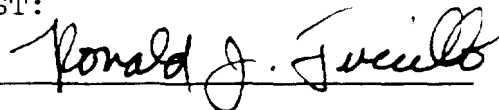
By   
CLARK W. BARLOW  
Senior Vice President-  
Operations

Dated: October 4, 1991

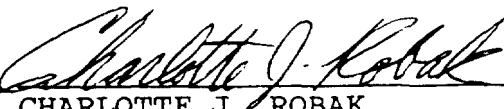
By   
THOMAS W. WHITE  
Executive Vice President-  
Telephone Operations

Dated: Oct. 8, 1991

ATTEST:

BY 

APOLLO CABLEVISION, INC.:

By   
CHARLOTTE J. ROBAK  
President

Dated: 11/18/91, 1991

ATTEST:

BY 

## DATA REQUIREMENTS FOR NVOD

Examples of data requirements are listed below. Data elements noted with a \* are originally provided by GTE to Apollo. These flow through Apollo's business system and will be accessed by Apollo on GTE's behalf to provide reports referencing buyer behavior to data originally provided by GTE. GTE will work with Apollo to develop report format and collection methods. Wherever possible, standard business system reports will be used.

### Per buy, per home and per buy per converter box

yes/no buy within promo time

yes/no buy within lease time

price of buy\*

channel # of buy\*

start time of buy\*

title of buy\*

studio of buy\*

type of buy (movie, event, special interest)\*

yes/no special promotions (e.g. coupon)\*

will need to provide data in format for GTE to cross-tabulate with external GTE databases of demographics, etc.

### Per home and per converter box

number of buys per time period (day, week, month, year,...)

number of buys per price of buy

number of buys per type (movie, event, special interest)

yes/no subscription to premium services (per service)

will need to provide data in format for GTE to cross-tabulate with external GTE databases of demographics, etc.

### Global statistics

% of cable HHs ever using NVOD

% of basic only HHs using NVOD per time period

% of pay HHs using NVOD per time period

cumulative usage of NVOD per HH (by revenue and # buys)

ave usage of NVOD among all HHs (by revenue and # buys)

ave usage of NVOD among users of NVOD (by revenue and # buys)

# and % HHs ordering specific titles

# and % HHs ordering specific titles at specific timeslot

# and % HHs using NVOD at different price points



ORIGINAL

This Enhanced Capability Decoder (Converter Box) Agreement is entered into as of the date last appearing on the signature page of this Agreement between GTE Service Corporation ("GTE") and Apollo CableVision, Inc. ("Apollo").

Recitals

This Agreement is entered into with reference to the following agreed facts:

A. Apollo has entered into contractual arrangements to acquire a decoder (converter box) manufactured by Scientific Atlanta that is suitable for its Video Programming. Apollo has installed (or has in inventory) approximately 3,000 of the Scientific Atlanta decoders as of the date of this Agreement.

B. GTE has determined that the Scientific Atlanta decoders acquired by Apollo do not have the capability of providing the Near Video On Demand ("NVOD") programming GTE desires to test and offer in Cerritos. GTE has requested that Apollo exchange the existing Scientific Atlanta decoders presently installed in the City of Cerritos or in Apollo's current inventory with a different decoder manufactured by Oak Communications, Inc. and to use the Oak decoder (hereinafter referred to as the enhanced capability decoder) for its installation and sale of Video Programming in Cerritos.

C. The enhanced capability decoders are to be owned by GTE pursuant to Amendment Number 2 to the Lease Agreement between Apollo and GTE for Coaxial Bandwidth. In that amendment, GTE agreed to purchase the enhanced capability decoders and reimburse Apollo for its costs (including labor and material) of

wiring the structures in which the decoders are to be installed and to compensate Apollo for the performance of certain other services such as the connection of the telephone interface module of the decoders to the telephone network.

D. The purpose of this Agreement is to specify the items of expense and cost to be paid by GTEC to Apollo in connection with the Scientific Atlanta decoders.

NOW, THEREFORE, the parties hereby agree as follows:

1. Within a reasonable time following (i) required System changes and (ii) the execution of this Agreement, Apollo hereby agrees to commence replacement of the existing Scientific Atlanta decoders installed in homes in Cerritos with the enhanced capability decoders. Apollo agrees to install the enhanced capability decoder for all installations in the System at no cost to GTEC or GTEC other than the costs specified in this Agreement and in the additional separate agreement referred to in recital paragraph C.

2. GTEC agrees as follows:

(a) To compensate GTEL for the contractual liability of Apollo pursuant to the Lease Agreement entered into between Apollo and GTEL associated with the return of each Scientific Atlanta decoder currently on hand or returned from existing Apollo customers in connection with the exchange of the decoders (approximately 3,000 decoders at a cost of approximately \$164,000).

(b) It is estimated that the completed exchange of decoders will consist of approximately 2,100 primary decoders and 900 additional decoders. The parties agree to negotiate in good faith the precise procedure to be utilized to implement such ex-

change, based upon a recognition of Apollo's desire to avoid adverse effect on relationships with its customers and GTE's need to implement the exchange in a cost effective manner.

(c) To reimburse Apollo for engineering support at the rate of \$47.50 per hour and for technical assistance at the rate of \$22.50 per hour reasonably incurred in connection with changes or modifications to the 78 channel head-end facility located in Cerritos that are incurred in connection with the changes to the System required exclusively by GTE. These costs will not exceed seven thousand six hundred dollars (\$7,600.00) without prior written consent of GTE.

(d) GTE agrees not to compete with Apollo, or any permitted successor or assignee, in the provision of Video Programming, as that phrase is used in the Cable Communications Policy Act of 1984, in the City of Cerritos during the term of the **Lease Agreement dated January 22, 1987**, as amended, between GTE California Incorporated and Apollo (including any extension thereof not in excess of seven (7) years beyond the initial term), provided, however, that GTE or any other GTE entity **shall not be prevented by this provision from complying with any obligation imposed on GTE by the FCC, other regulatory bodies or the courts, including but not limited to, Near Video On Demand, Video On Demand or other advanced forms of programming which may become available as a result of technological advances.**

3. GTE agrees to indemnify and hold Apollo harmless from any loss, claim, liability or demand, including attorneys fees, arising out of any disruption, not reasonably avoidable, to its Video Programming or service caused by the replacement of existing Scientific Atlanta decoders with enhanced capability decoders



and any related changes or modifications to the System required by GTESC which does not occur as a result of the negligence or fault of Apollo.

4. Upon ten (10) days written notice by GTESC to Apollo (or such shorter period as the parties may mutually agree upon), GTESC or its authorized representative shall have the right to commence an audit or examination during normal business hours of all source documents, systems, records and procedures as may contain information bearing upon amounts being billed to GTESC pursuant to this Agreement. The notice of audit or examination shall identify the date upon which it is to commence, the location, GTESC's representatives, the subject matter of the audit or examination and the materials to be reviewed. In the conduct of the audit or examination, GTESC's review will include all information which Apollo has or is in a position to provide to ensure that all components of all invoices are substantiated by adequate source documentation. GTESC shall also have integrity of source data. GTESC shall have the right to select, subject to approval of Apollo, an independent certified public accounting firm to conduct all or a portion of the audit or examination.

Each party shall bear its own expenses in connection with the conduct of each audit or examination except that GTESC shall pay for the cost of the independent certified public accounting firm.

5. The validity, construction and enforcement of this Agreement shall be governed by the laws of the State of California.

6. This Agreement contains the entire understanding of the parties, and such understanding may not be modified or terminated except in writing signed by the parties.

7. In the event either party hereto initiates an appropriate legal action to enforce the terms and provisions of this Agreement, the prevailing party in such action may recover its costs of suit, including reasonable attorneys fees.

IN WITNESS WHEREOF, this Enhanced Capability Decoder (Converter Box) Agreement is executed the day and year indicated below.

GTE SERVICE CORPORATION

APOLLO CABLEVISION, INC.

By Walt Sorg  
Walt Sorg  
Assistant Vice President  
Business Development

Date 11/16/89

By Charlotte J. Robak  
Name CHARLOTTE J ROBAK  
Title PRESIDENT  
Date 11-16-89

ATTEST:

Von Robak  
Corporate Secretary



CITY OF CERRITOS

ORDINANCE NO. 659

AN ORDINANCE OF THE CITY OF CERRITOS,  
CALIFORNIA GRANTING TO APOLLO CABLEVISION,  
INC., A NON-EXCLUSIVE CONTRACT FOR THE  
CONSTRUCTION, OPERATION, AND MAINTENANCE OF A  
CABLE COMMUNICATIONS SYSTEM FOR THE CITY OF  
CERRITOS

THE CITY COUNCIL OF THE CITY OF CERRITOS DOES ORDAIN AS FOLLOWS:

Section 1. Short Title. This Ordinance shall be known and may be cited as the "Cerritos Cable Communications Contract Ordinance with Apollo Cablevision, Inc."

Section 2. Grant. This Ordinance is enacted pursuant to the authority provided in Chapter 14.08 of the Cerritos Municipal Code. The contract herein granted shall consist of the following documents: Chapter 14.08 of the Cerritos Municipal Code, this Ordinance, and Exhibits A through H hereto, all of which are incorporated herein by reference and made a part hereof.

Section 3. General Terms and Conditions. Apollo Cablevision, Inc. hereinafter referred to as the Grantee, is hereby granted a non-exclusive contract to operate and maintain a cable communications system in the City of Cerritos, and to construct parts thereof.

3.1 The contract herein granted shall be subject to all of the terms and conditions of this Ordinance and the other documents comprising the contract as set forth in Section 2 hereinabove. In the event of any conflict between the provisions of this Ordinance and said documents, the provisions of this Ordinance shall prevail.

3.2 Grantee shall operate and maintain, as set forth more specifically herein, a cable communications system as necessary to serve the entire City of Cerritos, which is the service area covered by this contract.

3.3 Pursuant to a Franchise granted by the City of Cerritos, General Telephone Company of California has been authorized to construct an underground communication transmission facility (the "System") in the City of Cerritos. The construction of the System shall be performed by T. L. Robak, Inc., a California corporation, pursuant to a design agreement (the "Design Agreement") and a construction agreement ("Construction Agreement") entered into with General Telephone Company of California dated January 22, 1987. The terms and conditions of the Design Agreement are incorporated herein by reference and made a part hereof. The terms and conditions of the Construction Agreement (less paragraphs 2. and 3. Appendix 5 to Exhibit "A", and Exhibit "B" thereof) are attached hereto as Exhibit A, incorporated herein by reference, and made a part hereof.

*EXHIBIT "E"* 000094

3.4 A portion of the System (the "Facilities") has been designed to transmit cable television ("CATV") signals throughout the service area covered by this contract. General Telephone Company of California has leased 275 Mhz of bandwidth capacity to Grantee pursuant to a Lease Agreement between Grantee and General Telephone Company of California dated January 22, 1987 (the "Lease Agreement"). The terms and conditions of the Lease Agreement are incorporated herein by reference and made a part hereof. Default by Grantee pursuant to the terms of the Lease Agreement shall be deemed a breach of this contract.

3.5 Exhibit "C" to the Lease Agreement between Grantee and General Telephone Company of California contains a schedule of specified items required to operate a cable television system that are owned by Grantee rather than General Telephone Company of California. Grantee shall construct, operate and maintain the items identified on Exhibit "C" to the Lease Agreement (the "Grantee Owned Items") pursuant to the terms and provisions of this contract.

Section 4. Contract Rescission Requirements. The City, at its sole option, may rescind the contract award without liability to Grantee, if all the following requirements are not met within the time limits specified. The Grantee must:

4.1 File with the City Clerk not later than the twentieth (20th) day from the effective date of this Ordinance, as defined in Section 20 herein, the form of Acceptance attached hereto as Exhibit B, accepting the contract granted herein by the City, together with the bonds and insurance policies required by Cerritos Municipal Code Section 14.08.270.

4.2 File within ninety (90) days from the effective date of this Ordinance, with the City's Director of Public Services, the Design Specifications and Construction Methods specified in paragraph 1 of the Design Agreement for review and approval by the City.

Section 5. Permits, Licenses and Authorizations. Grantee shall proceed with due diligence to obtain all necessary permits, licenses and authorizations as set forth in Cerritos Municipal Code Section 14.08.110. To the extent practicable, the City will assist the Grantee in resolving any difficulties in obtaining requisite permits.

Section 6. Criteria for Grantee Owned Items.

6.1 All Grantee Owned Items shall be constructed in such a manner as to cause the least disruption to streets, sidewalks, or other public property. Methods of construction must be approved by the City's Director of Public Services prior to initiation, provided, however, that such approval shall not be unreasonably withheld.

000635

6.2 All Grantee Owned Items located above ground level shall be subject to the approval of the Director of Public Services as to location, size, shape, color, and screening, provided, however, that such approval shall not be unreasonably withheld.

Section 7. Line Extension. After construction by General Telephone Company of California of CATV Facilities into and throughout new subdivisions and developments in the City of Cerritos or areas annexed to or incorporated into the City, Grantee shall extend service to any such newly annexed or developed areas. The full spectrum of Grantee's cable service shall be provided throughout such new subdivision, development and/or annexed area at installation and service rates as set forth in Exhibit F, or as modified pursuant to this contract.

Section 8. Technical Specifications.

8.1 Grantee shall comply with all technical standards and performance testing requirements set forth in Exhibit C.

8.2 Grantee shall provide, at its sole expense, for the importation and carriage of a minimum of three educational programming channels from the CATV system serving the City of Lakewood, California, and/or the Long Beach Unified School District's Instructional Television System programming. Such interconnections may be by micro-wave, cable or other communications technology as Grantee may deem appropriate, provided that the imported signal(s) will meet the pertinent technical specifications as set forth in Exhibit C hereto.

8.3 The parties agree that the City has the discretion to require Grantee to provide interconnection with adjacent cable systems provided that: (i) the bandwidth capacity utilized for such interconnection shall not include any portion of the bandwidth capacity required to provide the programming services specified on Exhibit G or any bandwidth capacity acquired by Grantee in excess of 275 Mhz; and, (ii) the City shall defray any cost for each interconnection to an adjacent cable system in excess of \$10,000.

Section 9. Emergency Alert. Grantee will provide, upon activation of the CATV system, emergency alert video and audio override capability. This emergency alert override system is to be used and remotely controlled from the City's Emergency Control Center by the City in the event of an emergency situation. The City agrees that it shall indemnify and hold Grantee harmless from any and all liabilities, claims and demands whatsoever, including attorney's fees, as a result of the utilization of the emergency alert override system by any employee, agent, servant, or other representative of the City.

Section 10. Customer Service and Regulations. In addition to the rules and regulations in regard to the privacy and property rights of private citizens as set forth in Cerritos Municipal

Code Section 14.08.240, the City reserves the right to further regulate the conduct of Grantee in regard to such matters including but not limited to regulation of the security of all records maintained by Grantee containing privacy-sensitive information, Grantee's personnel practices relating to such records, and any other matters related to privacy and individual rights.

Section 11. System Outage and Subscriber Complaint Service.

11.1 Grantee will maintain a Subscriber Complaint Service operated from Grantee's local office, and qualified technicians will be permanent members of the local staff. Routine handling of customer service requests will be the responsibility of the local staff and conducted in accordance with Cerritos Municipal Code Section 14.08.230 and Exhibit D. Subscribers will be notified of the complaint procedure by Grantee's inclusion of the following text on the Subscriber's Work Order which is left with the subscriber:

"Requests for repairs should be made to Apollo Cablevision by calling [phone number] at any time. Response will be made immediately or on the following business day, depending on the severity of the complaint and other circumstances.

Subscribers who have so requested repairs but are dissatisfied with services rendered are requested to lodge a written complaint to the system office at [address]."

11.2 Grantee will provide refund of service charges on a pro-rata basis for service outages within its control which exceed twenty-four continuous hours, upon receipt of a written request from an affected subscriber.

11.3 Grantee will not be responsible for problems created by subscribers or for problems with subscriber-owned equipment. The subscriber must allow the service technicians access to the problem if located on the subscriber's property, or forfeit any refund due for service outage.

11.4 If Grantee fails to maintain and/or repair the Grantee Owned Items in a manner sufficient to meet the performance standards established by this contract, then either General Telephone Company of California or the City may undertake such work and all costs incurred by the party undertaking such repairs shall be a charge against Grantee. Prior to any other party performing any such work, Grantee shall be given notice of the work required and at least ten (10) days in which to complete such work.

11.5 Grantee shall submit to City on a monthly basis a report of complaints received and actions taken in response to such complaints.

Section 12. Public, Educational and Governmental Access.

12.1 In order to allow for full use of Grantee provided access channels, Grantee shall provide, or assist in providing, viable and successful access support to City and to its subscribers, including access administration, operation, and provision of channels, in accordance with Exhibit E.

12.2 The City reserves the right to form a non-profit corporation, or other agency for the purposes, inter alia, of promoting and administering all public access channels except as preempted by the City Council, State or Federal authorities. Subject to the approval of the City, Grantee shall enter into an agreement or contract with the so-designated agency for support of that agency's responsibilities.

12.3 The City Council shall establish by resolution rules and regulations to govern Grantee's use of the channel capacity provided for public, educational, and governmental access at such times as such channel capacity is not being used for such purposes.

12.4 Grantee shall provide and maintain in good operating order a MetroData Model 120 Character Generator, or equivalent, with graphics capability, and one terminal for remote entry by the educational and/or government facility or building designated by the City Manager. The signal to and from the headend and remote entry site may be carried either by cable or telephone lines, or other means preferred by Grantee, who shall be responsible for the cost of installation and operation of any mode chosen.

12.5 Grantee shall, within six (6) months of notification by City, provide, install and maintain in good operating condition a PhaseCom Director System, or equivalent, automatic programmable tape player with appropriate accessories as determined by the City Manager for use by the City government agencies, i.e., Department of Human Affairs, etc., in remotely originating programming for carriage on and throughout Grantee's Cerritos system. Grantee shall provide, install and maintain such automatic programmable tape player, with the installation site to be as determined by the City Manager. City shall defray any cost for purchase of the equipment in excess of \$15,000. Notification to Grantee pursuant to this Subsection shall not be given prior to completion of construction of the Facilities pursuant to the Construction Agreement.

Section 13. Rates and Charges.

13.1 The maximum rates which Grantee shall charge subscribers upon initiation of service under this contract are those set forth in Exhibit F. City agrees to decrease the contract fee to which it is otherwise entitled pursuant to Section 14 of this contract to two and one-half percent (2 1/2%) provided Grantee maintains such rates for the duration of this contract; provided,



however, that Grantee may adjust such rates annually upon the anniversary date of the effective date of this Ordinance in accordance with any change in the latest available Los Angeles/Long Beach/Anaheim Consumer Price Index for Urban Wage Earners and Clerical Workers published by the United States Department of Labor Statistics, or any successor thereto, since the date of the last adjustment. Grantee and City agree that maintenance of subscriber rates in accordance with the terms of this subsection fulfills Grantee's obligation to pass through to subscribers the amount of any "decrease in a franchise fee" pursuant to 47 U.S.C. §542(e).

13.2 Should Grantee determine to raise rates to subscribers beyond the amount set forth in Exhibit F, as adjusted pursuant to Subsection 13.1, the contract fee set forth in Section 14 shall become effective. The rates set forth in Exhibit F reflect all costs of the contract fees set forth in Section 14 hereof, and institution of such fees shall not be deemed an "increase in a franchise fee" pursuant to 47 U.S.C. § 542(c).

13.3 The City Council may waive the provisions of subsection 13.1 if after a duly noticed public hearing it finds and determines that a raise in rates beyond those specified in subsection 13.1 is justified for Grantee due to a change in conditions which is beyond the control of Grantee. Grantee shall provide written documentation, including but not limited to, financial records and/or audit statements as necessary to support its requests for a raise in rates.

13.4 All private and public schools with an enrollment of one hundred (100) or more students, and each City government building will be provided free Basic connection and free Basic service, at the highest Basic Tier level, for educational purposes, provided however, that such users shall be responsible for converters in the same manner as other subscribers. Each public school shall in addition receive up to three (3) drops and three (3) outlets. Each City government building, the Cerritos Community Arts Center, the Lakewood Sheriff's station, and all fire stations in Cerritos shall in addition receive one (1) drop and one (1) outlet. Chosen drop locations shall be mutually agreed upon by the City's Director of Internal Affairs and Grantee. The City or other entity involved will provide whatever easements may be necessary for Grantee to provide such service. Additional drops will be provided at standard rates as set forth herein.

#### Section 14. Contract Fee.

14.1 In consideration of the granting and exercise of a contract for the construction and operation of a cable communications system, Grantee shall pay to the City during the life of the contract, a fee of five percent (5%) of Grantee's annual gross revenues as set forth in Cerritos Municipal Code Section 14.08.260.